S.B.CIVIL WRIT PETITION NO.7369/2006.
Dr.Shyam Bihari Gupta
Vs.
The Rent Tribunal, Udaipur & Ors.

Date of Order :: 22nd August 2007

HON'BLE MR.JUSTICE DINESH MAHESHWARI

Mr. Siddharth Joshi, for the petitioner.
Mr. Om Mehta, for the respondent No.2.

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The writ petitioner is defending a petition for eviction (Case No.57/2003) filed by his landlord and pending before the Rent Tribunal, Udaipur. It appears from the material placed on record in this writ petition and cognate Writ Petition No.4127/2007 relating to the same eviction petition and being decided by a separate order today, that the issues in the matter have been framed on the questions of reasonable and bona fide requirement, material alteration and acquiring of suitable alternative accommodation by the tenant.

It appears that the petitioner earlier sought an amendment in the reply that was directed to be allowed by this Court on 17.08.2006 while deciding writ petition No.2823/2006; and this Court expected the Tribunal to decide the matter within two months.

After the present petitioner filed the amended reply and the landlord filed rejoinder thereto, a prayer was made by the petitioner for amendment of the issues that was rejected

by the Tribunal on 27.09.2006; however, this Court by the order dated 16.10.2006 passed in writ petition No.5922/2006 directed the Tribunal to hear the parties and to pass the order in accordance with law, after noticing that the Tribunal has not spelt out as to why framing of the additional issues was not necessary. It appears from the averments taken in the petition that thereafter the Tribunal passed an order on 06.11.2006 rejecting the prayer of the petitioner for amendment of issues. Though the petitioner has averred that the order dated 06.11.2006 has not been passed in compliance of the directions issued by this Court, however, a copy of the said order dated 06.11.2006 has not been placed on record. Be that as it may, it appears that when the matter was fixed for cross-examination of the witnesses, the petitioner moved an application in the said eviction petition on 13.11.2006 (Annex.7) purported to be under Section 21 (3) of the Rajasthan Rent Control Act, 2001 ('the Act of 2001') read with Order 11 Rules 12 & 14 CPC and sought directions against the landlord for production of several documents in relation to the firms said to be of the family members of the landlord. The petitioner also moved another application on 13.11.2006 (Annex.4) with reference to Sections 18 and 21 of the Act of 2001 and Order 14 Rule 5 CPC for framing of several issues regarding the other properties of the landlord, regarding

working of the family members of the landlord, and regarding location and status of the other establishment, said to be related with the tenant.

The Tribunal has proceeded to reject both the applications aforesaid by its impugned order dated 01.12.2006 (Annex.9). In respect of the application (Annnex.4), the Tribunal has observed that detailed order has already been passed relating to the amendment of issues; that the High Court has directed disposal of the matter within two months from 17.08.2006; that the landlord was a Senior Citizen; and that the tenant was only seeking to delay the proceedings. The Tribunal has rejected the said application with costs of Rs.1,000/-. Regarding other application made with reference to Order 11 Rules 12 & 14 CPC, the Tribunal has observed that evidence of the applicant, his son and witnesses has already been recorded and such application could have been moved earlier but the same was also moved for the purpose of causing delay; and has proceeded to reject the said application with costs of Rs.500/-. The order dated 01.12.2006 (Annex.9) is sought to be questioned in this writ petition.

Learned counsel Mr. Siddharth Joshi appearing for the petitioner submitted that the Tribunal has not considered the substance of the matter and has not framed necessary issues

directly arising for consideration of the case; and has refused to call the documents directly relevant for disposal of the case and, therefore, the impugned order deserves to be set aside.

Having examined the record of the case, this Court is clearly of opinion that this writ petition remains absolutely bereft of substance and deserves to be dismissed.

Both the applications as made by the petitioner appear to be entirely misconceived and baseless. It appears that after passing of the order dated 16.10.2006 in writ petition No.5922/2006, the Tribunal has already passed an order on 06.11.2006 on the prayer for amendment of the issues; and there appears no reason for the Tribunal to repeatedly consider the amendment of issues. Moreover, from the application (Annex.4), the suggested issues appear to be related essentially to the questions of reasonable and bonafide requirement of the landlord as involved in issue No.1; and of the tenant having acquired suitable accommodation adequate for his purpose as involved in issue No.3. Every single factual aspect related to such issues is obviously not required to be put in the form of a separate issue. The Tribunal has rightly rejected the application moved by the petitioner for amendment of issues.

The other application relating to summoning of the documents does also appear to be entirely baseless. The

question of reasonable and bonafide requirement of the landlord cannot be converted into a fishing inquiry into the functioning and working of the family members of the landlord. The Tribunal has further pointed out that the application was moved only after four witnesses of the landlord had already been examined.

Though ordinarily imposing of excessive costs may not be justified; but in the circumstances of this case, the Tribunal cannot be faulted in imposing such costs on the petitioner for moving such frivolous applications. There is no force in this writ petition.

The petition fails and is, therefore, rejected.

(DINESH MAHESHWARI), J.

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